UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	:	INFORMATION
- v. -	:	S6 05 Cr. 1067 (KMK)
MARION JONES,	:	
Defendant.	:	

COUNT ONE
(False Statements to a Government Agency)

The United States Attorney charges:

Background

1. At all times relevant to this Information, MARION JONES, the defendant ("JONES"), was an elite, professional track and field athlete. Among other achievements, JONES won five medals, including three gold medals, at the Summer Olympic Games held in Sydney, Australia, in 2000.

The Northern District of California Criminal Investigation

2. At all times relevant to this Information, Balco Laboratories, Inc. ("Balco"), was a California corporation performing blood-testing, among other functions. Balco was located in Burlingame, California.

3. At all times relevant to this Information, Trevor Graham ("Graham"), was a coach for track and field athletes, including professional and Olympic athletes, and had coached MARION JONES, the defendant, from approximately 1997 to 2002.

4. A federal criminal investigation commenced in the Northern District of California ("the Northern District of California Criminal Investigation") in or about 2002. The Northern District of California Criminal Investigation concerned the distribution of anabolic steroids and other illegal performance-enhancing drugs and the related money laundering of proceeds from said distributions and centered around Balco. The Northern District of California Criminal Investigation subsequently expanded to include, among other things, investigation into whether various witnesses made false statements during interviews with federal agents. The Internal Revenue Service-Criminal Investigation Division ("IRS-CID"), San Jose Office, was the lead investigative agency throughout the course of the Northern District of California Criminal Investigation.

5. As part of the Northern District of California Criminal Investigation, on or about September 3, 2003, a federal search warrant, issued by a United States Magistrate Judge in the Northern District of California, was executed at the Balco premises in Burlingame, California. Among other things, investigators obtained evidence concerning MARION JONES, the defendant, and her relationship with Balco, Graham, and other professional athletes.

6. As part of the Northern District of California Criminal Investigation, on November 4, 2003, a Special Agent of IRS-CID, along with other Government officials, interviewed MARION JONES, the defendant. Prior to the interview, a letter-agreement between JONES and the United States Attorney's Office for the Northern District of California covering JONES's interview was executed. The letter-agreement provided that any statements made by JONES during the interview would not be used against her in connection with any prosecution of JONES, except under limited circumstances. The letter-agreement specifically stated that JONES was not immunized from prosecution for making false statements during the interview.

7. During the interview on November 4, 2003, a Special Agent of IRS-CID asked MARION JONES, the defendant, in the presence of her attorneys, about the following matters, among others, all of which were material to the Northern District of California Criminal Investigation:

(a) Whether JONES had ever seen or used a performance-enhancing drug known as "the clear"; and

(b) Whether JONES had received the item referred to in paragraph 7(a) from Graham.

The Southern District of New York Criminal Investigation

8. Timothy Montgomery ("Montgomery") was an elite, professional track and field athlete. MARION JONES, the defendant, and Montgomery lived together at various times between in or about 2002 until in or about the summer of 2005.

9. A federal criminal investigation commenced in the Southern District of New York ("the Southern District of New York Criminal Investigation") in or about June 2005 concerning a series of counterfeit checks. The Department of Homeland Security, Immigration and Customs Enforcement ("ICE"), was the lead investigative agency throughout the course of the Southern District of New York Criminal Investigation.

10. The Southern District of New York Criminal Investigation included investigation into a counterfeit check for $850,000 deposited in or about April 2005 into a business account controlled by Nathaniel Alexander ("Alexander"), an individual who resided in Norfolk, Virginia, and the distribution of the proceeds of the $850,000 counterfeit check. Alexander was a friend and officemate of the person who was, in or about 2005, the track coach of MARION JONES, the defendant, and Montgomery. One check for $25,000 from Alexander, which represented part of the proceeds of the $850,000 counterfeit check, was made out to JONES and was deposited by JONES into an account maintained by her.

11. The Southern District of New York Criminal Investigation also included investigation into a counterfeit check for $200,000 deposited by Montgomery in or about May 2005 into a business account controlled by Montgomery and MARION JONES, the defendant. JONES and Montgomery executed documents to add JONES as a signatory to that business account several days before Montgomery deposited the $200,000 counterfeit check.

12. As part of the Southern District of New York Criminal Investigation, a Special Agent of ICE, along with other Government officials, interviewed MARION JONES, the defendant, on August 2, 2006, and September 5, 2006, at the United States Attorney's Office for the Southern District of New York. During the interview, JONES was asked, in the presence of her attorney, about the following matters, among others, all of which were material to the Southern District of New York Criminal Investigation:

(a) Whether JONES was aware of a $25,000 check from Alexander to her;

(b) Whether JONES was aware of Montgomery's receipt of any large checks, including the $200,000 counterfeit check, in or about 2004 or 2005; and

(c) Whether JONES had any knowledge of Montgomery's involvement in a counterfeit check fraud scheme.

13. On or about April 9, 2007, Montgomery pled guilty to one count of conspiracy to commit bank fraud, in violation of 18 U.S.C. § 1349, and two counts of bank fraud, in violation of 18 U.S.C. §§ 1344 and 2, in the United States District Court for the Southern District of New York. Montgomery's guilty plea was predicated upon, among other things, the deposit of the $200,000 counterfeit check into the account controlled by Montgomery and MARION JONES, the defendant.

STATUTORY ALLEGATIONS

14. On or about November 4, 2003, in the Northern District of California, MARION JONES, the defendant, unlawfully, willfully, and knowingly, in a matter within the jurisdiction of the executive branch of the Government of the United States, falsified, concealed, and covered up by trick, scheme, and device material facts, and made materially false, fictitious, and fraudulent statements and representations, to wit, in an interview with a Special Agent of IRS-CID conducted as part of the Northern District of California Criminal Investigation, JONES made the following false statements and concealed and covered up the following material facts:

(a) JONES falsely and fraudulently stated that she had never seen or ingested a performance-enhancing drug known as "the clear," when, in truth and in fact, JONES had seen and ingested a performance-enhancing drug known as "the clear"; and

(b) JONES falsely and fraudulently stated that she had never received a performance-enhancing drug known as "the clear" from Graham, when, in truth and in fact, JONES had received a performance-enhancing drug known as "the clear" from Graham.

(Title 18, United States Code, Section 1001.)

COUNT TWO
(False Statements to a Government Agency)

The United States Attorney further charges:

15. The factual allegations set forth in paragraphs 1 and 8 through 13 are repeated and realleged as if fully set forth herein.

16. On or about August 2, 2006, and September 5, 2006, in the Southern District of New York, MARION JONES, unlawfully, willfully, and knowingly, in a matter within the jurisdiction of the executive branch of the Government of the United States, falsified, concealed, and covered up by trick, scheme, and device material facts, and made materially false, fictitious, and fraudulent statements and representations, to wit, in interviews with a Special Agent of ICE conducted as part of the Southern District of New York Criminal Investigation, JONES made the following false statements and concealed and covered up the following material facts:

(a) On or about August 2, 2006, JONES falsely and fraudulently stated that she was unaware of a $25,000 check from

Alexander to her, when, in truth and in fact, JONES was aware of a $25,000 check from Alexander to JONES and had herself endorsed that check;

(b) On or about August 2, 2006, and September 5, 2006, JONES falsely and fraudulently stated that she was unaware of Montgomery's receipt of any large checks in or about 2004 or 2005, including the $200,000 counterfeit check, when, in truth and in fact, JONES was aware of Montgomery's receipt of the $200,000 counterfeit check in 2005; and

(c) On or about August 2, 2006, and September 5, 2006, JONES falsely and fraudulently stated that she had no knowledge of Montgomery's involvement in a counterfeit check fraud scheme, when, in truth and in fact, JONES did have knowledge of Montgomery's involvement in a counterfeit check fraud scheme.

(Title 18, United States Code, Section 1001.)

Michael J. Garcia

MICHAEL J. GARCIA SSR
United States Attorney

U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

October 5, 2007

F. Hill Allen, Esq.
Tharrington Smith, LLP
209 Fayetteville Street
Raleigh, North Carolina 27602

Re: United States v. Marion Jones
S6 05 Cr. 1067 (KMK)

Dear Mr. Allen:

On the understandings specified below, the Offices of the United States Attorney for the Southern District of New York and the Northern District of California ("these Offices") will accept a guilty plea from Marion Jones (the "defendant") to Counts One and Two of the above-referenced Superseding Information (the "Superseding Information").

Counts One and Two of the Superseding Information each charge the defendant with making false statements to a Government agency, in violation of 18 U.S.C. § 1001. Each Count of the Superseding Information carries a maximum sentence of 5 years' imprisonment; a maximum term of supervised release of 3 years; a maximum fine of the greatest of $250,000, twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to persons other than the defendant resulting from the offense; and a mandatory $100 special assessment.

The total maximum term of imprisonment on Counts One and Two of the Superseding Information is 10 years' imprisonment.

In addition to the foregoing, the Court must order restitution to any victims of the offenses charged in the Superseding Information, in accordance with 18 U.S.C. §§ 3663, 3663A, and 3664.

In consideration of her plea to the above offenses, the defendant will not be further prosecuted criminally by these Offices (except for criminal tax violations as to which these Offices cannot, and do not, make any agreement) for: (a) false statements made by the defendant and related conduct in connection with the investigation of Balco Laboratories, Inc., in or about November 2003; (b) false statements made by the defendant during interviews with a Special Agent of the Department of Homeland Security, Immigration and Customs Enforcement, on or about August 2, 2006, and September 5, 2006; (c) any conduct relating to checks in the amount

of $25,000 to the defendant deposited in or about April 2005 and in the amount of $200,000 to TM & Associates deposited in or about May 2005. In addition, at the time of sentencing, the Government will move to dismiss any open Count(s) against the defendant. The defendant agrees that with respect to any and all dismissed charges she is not a "prevailing party" within the meaning of the "Hyde Amendment," Section 617, P.L. 105-119 (Nov. 26, 1997), and will not file any claim under that law.

In consideration of the foregoing and pursuant to Section 6B1.4 of the United States Sentencing Guidelines (the "Guidelines" or "U.S.S.G."), the parties hereby stipulate to the following:

A. Offense Level

1. Counts One and Two of the Superseding Information charge violations of 18 U.S.C. § 1001 and, accordingly, the offenses constitute a single group, pursuant to U.S.S.G. § 3D1.2(d).

2. The group comprised of Counts One and Two of the Superseding Information is governed by U.S.S.G. § 2B1.1.

3. The base offense level applicable to the group comprised of Counts One and Two of the Superseding Information is 6.

4. Assuming that the defendant clearly demonstrates her acceptance of responsibility to the satisfaction of the Government, through her allocution and subsequent conduct prior to the imposition of sentence, a 2-level reduction will be warranted, pursuant to U.S.S.G. § 3E1.1(a).

In accordance with the above, the applicable Sentencing Guidelines offense level is 4.

B. Criminal History Category

Based on information currently available to these Offices, the defendant has 0 criminal history points and, accordingly, the defendant's Criminal History Category is I.

C. Sentencing Range

Based upon the calculations set forth above, the defendant's stipulated Sentencing Guidelines range is 0 to 6 months (the "Stipulated Guidelines Range"). Furthermore, after determining the defendant's ability to pay, the Court may impose a fine pursuant to U.S.S.G. § 5E1.2. At Sentencing Guidelines level 4, the applicable fine range is $250 to $5,000.

The parties agree that neither a downward nor an upward departure from the Stipulated Guidelines Range of 0 to 6 months is warranted. Accordingly, neither party will seek such a departure or seek any adjustment not set forth herein. Nor will either party suggest that the Probation Department consider such a departure or adjustment, nor suggest that the Court sua sponte consider such a departure or adjustment.

The parties further agree that a sentence within the Stipulated Guidelines Range of 0 to 6 months would constitute a reasonable sentence in light of all of the factors set forth in 18 U.S.C. § 3553(a). In addition, neither party will seek a sentence outside of the Stipulated Guidelines Range of 0 to 6 months, suggest that the Probation Department consider a sentence outside of the Stipulated Guidelines Range of 0 to 6 months, or suggest that the Court sua sponte consider a sentence outside of the Stipulated Guidelines Range of 0 to 6 months.

Except as provided in any written Proffer Agreement(s) that may have been entered into between these Offices and the defendant, nothing in this Agreement limits the right of the parties: (i) to present to the Probation Department or the Court any facts relevant to sentencing; (ii) to make any arguments regarding where within the Stipulated Guidelines Range of 0 to 6 months (or such other range as the Court may determine) the defendant should be sentenced; and (iii) to seek an appropriately adjusted Sentencing Guidelines range if it is determined based upon new information that the defendant's criminal history category is different from that set forth above. Nothing in this Agreement limits the right of the Government to seek denial of the adjustment for acceptance of responsibility, see U.S.S.G. § 3E1.1, and/or imposition of an adjustment for obstruction of justice, see U.S.S.G. § 3C1.1, regardless of any stipulation set forth above, should the defendant move to withdraw her guilty plea once it is entered, or should it be determined that the defendant has either: (i) engaged in conduct, unknown to the Government at the time of the signing of this Agreement, that constitutes obstruction of justice; or (ii) committed another crime after signing this Agreement.

It is understood that pursuant to U.S.S.G. § 6B1.4(d), neither the Probation Department nor the Court is bound by the above Sentencing Guidelines stipulation, either as to questions of fact or as to the determination of the proper Sentencing Guidelines to apply to the facts. In the event that the Probation Department or the Court contemplates any Sentencing Guidelines adjustments, departures, or calculations different from those stipulated to above, or contemplates any sentence outside of the Stipulated Guidelines Range of 0 to 6 months, the parties reserve the right to answer any inquiries and to make all appropriate arguments concerning the same.

It is understood that the sentence to be imposed upon the defendant is determined solely by the Court. It is understood that the Sentencing Guidelines are not binding on the Court. The defendant acknowledges that her entry of a guilty plea to the charged offenses authorizes the sentencing court to impose any sentence, up to and including the statutory maximum sentence. These Offices cannot, and do not, make any promise or representation as to what sentence the defendant will receive. Moreover, it is understood that the defendant will have no right to

withdraw her plea of guilty should the sentence imposed by the Court be outside the Stipulated Guidelines Range of 0 to 6 months.

It is agreed: (i) that the defendant will not file a direct appeal, nor litigate under Title 28, United States Code, Section 2255 and/or Section 2241, any sentence within or below the Stipulated Guidelines Range of 0 to 6 months; and (ii) that the Government will not appeal any sentence within or above the Stipulated Guidelines Range of 0 to 6 months. It is further agreed that any sentence within the Stipulated Guidelines Range of 0 to 6 months is reasonable. This provision is binding on the parties even if the Court employs a Sentencing Guidelines analysis different from that stipulated to herein. Furthermore, it is agreed that any appeal as to the defendant's sentence that is not foreclosed by this provision will be limited to that portion of the sentencing calculation that is inconsistent with (or not addressed by) the above stipulation.

The defendant hereby acknowledges that she has accepted this Agreement and decided to plead guilty because she is in fact guilty. By entering this plea of guilty, the defendant waives any and all right to withdraw her plea or to attack her conviction, either on direct appeal or collaterally, on the ground that the Government has failed to produce any discovery material, Jencks Act material, exculpatory material pursuant to Brady v. Maryland, 373 U.S. 83 (1963), other than information establishing the factual innocence of the defendant, and impeachment material pursuant to Giglio v. United States, 405 U.S. 150 (1972), that has not already been produced as of the date of the signing of this Agreement.

By entering this plea of guilty, the defendant also waives any and all right the defendant may have, pursuant to 18 U.S.C. § 3600, to require DNA testing of any physical evidence in the possession of the Government. The defendant fully understands that, as a result of this waiver, any physical evidence in this case will not be preserved by the Government and will therefore not be available for DNA testing in the future.

It is further agreed that should the conviction(s) following the defendant's plea(s) of guilty pursuant to this Agreement be vacated for any reason, then any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement (including any count that the Government has agreed to dismiss at sentencing pursuant to this Agreement) may be commenced or reinstated against the defendant, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement or reinstatement of such prosecution. It is the intent of this Agreement to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed.

It is also agreed that the defendant specifically waives any challenge to Count One of the Superseding Information based on venue and consents to prosecution of Count One of the Superseding Information in the Southern District of New York.

The parties understand that this Agreement reflects the special facts of this case and is not intended as precedent for other cases.

It is further understood that this Agreement does not bind any federal, state, or local prosecuting authority other than these Offices.

Apart from any written Proffer Agreement(s) that may have been entered into between these Offices and the defendant, this Agreement supersedes any prior understandings, promises, or conditions between these Offices and the defendant. No additional understandings, promises, or conditions have been entered into other than those set forth in this Agreement, and none will be entered into unless in writing and signed by all parties.

Very truly yours,

MICHAEL J. GARCIA
United States Attorney
Southern District of New York

By: _____
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Assistant United States Attorneys
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APPROVED:

_____
Stephen J. Ritchin
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APPROVED:

_____
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Chief, San Jose Division
Telephone: (408) 535-5042

AGREED AND CONSENTED TO:

Marion Jones _____ 10-5-07 _____
Marion Jones Date

APPROVED:

F Hill Allen _____ 10-5-07 _____
F. Hill Allen, Esq. Date
Tharrington Smith, LLP
Attorneys for Marion Jones